

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

RENE TINOCO HERNANDEZ,	§	
	§	
<i>Plaintiff,</i>	§	
	§	
V.	§	CASE NO. 4:11-CV-597
	§	Judge Clark/Judge Mazzant
WOOD/CHUCK CHIPPER CORPORATION,	§	
ET AL.	§	
	§	
<i>Defendants.</i>	§	

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On April 13, 2012, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendants Wood/Chuck Chipper Corporation, Altec Environmental Products, LLC, and Altec, Inc.'s Motion to Dismiss Under Federal Rule 12(b)(6) [Doc. #32] be granted in part and denied in part.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court.

It is, therefore, **ORDERED** that Defendants Wood/Chuck Chipper Corporation, Altec Environmental Products, LLC, and Altec, Inc.'s Motion to Dismiss Under Federal Rule 12(b)(6) [Doc. #32] is **GRANTED in part and DENIED in part**. Plaintiff's second cause of action,

“Product Liability - Manufacturing Defects,” and fourth cause of action, “Product Liability - Continuing Duty to Warn,” are DISMISSED.

So **ORDERED** and **SIGNED** this **18** day of **May, 2012**.

A handwritten signature in cursive script, appearing to read "Ron Clark", written in black ink.

Ron Clark, United States District Judge